



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 6797

March 30, 2009

Ms. Gerri Silva, Director
El Dorado County
Environmental Management Department
2850 Fairlane Court
Placerville, California 95667

Dear Ms. Silva:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the El Dorado County Environmental Management Department (CUPA) on January 7 and 8, 2009. The evaluation was comprised of an in-office program review, and field oversight inspections, by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that El Dorado County Environmental Management Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Mr. Tyrone Smith every 90 days after the evaluation date. The first deficiency progress report is due on June 30, 2009.

Cal/EPA also noted during this evaluation that El Dorado County Environmental Management Department CUPA has worked to bring about a number of local program innovations, including the use of ArcGIS for its inspection and emergency response programs and the design of an informative website providing a directory of services, information bulletins on environmental codes, Unified Program Consolidated Forms, Unidocs inspection forms, hazardous waste inspection tips, and links to other state and federal websites. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program website to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original Signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via email:

Mr. Dave Johnston
El Dorado County
Environmental Management Department
2850 Fairlane Ct.
Placerville, California 95667

Mr. Sean Farrow
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Mark Pear
Department of Toxic Substances Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. Fred Mehr
California Emergency Management Agency
3650 Schriever Avenue
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Mr. Kevin Graves
State Water Resources Control Board
P.O. Box 944212
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Ms. Terry Brazell
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cc: Sent via email:

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: EL DORADO COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT

Evaluation Dates: January 7 and 8, 2009

EVALUATION TEAM

Cal/EPA: Jennifer Lorenzo
DTSC: Mark Pear
OES: Fred Mehr
SWRCB: Sean Farrow

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. Questions or comments can be directed to Tyrone Smith at (916) 327-9558.

	<u>Deficiency</u>	<u>Corrective Action</u>
1	The CUPA's Self-Audit reports did not contain some required elements. For example, the CUPA is missing information on its enforcement and permitting activities. CCR, Title 27, Section 15280 [Cal/EPA]	By September 30, 2009, the CUPA will submit a Self-Audit report with all the required elements.
2	The CUPA is not fully tracking and accurately reporting inspections information on the Annual Inspection Summary Report 3. For example, in the last three fiscal years, the CUPA has been reporting the number of re-inspections or follow-up inspections under routine compliance inspections. CCR, Title 27, Section 15290 (a) and (a)(2) [Cal/EPA]	Re-inspections or follow-up inspections should be included under "other inspections" (column 5) on the Annual Inspection Summary Report. By September 30, 2009, the CUPA will verify that the inspections data on the Annual Inspection Summary Report 3 will be complete and as accurate as possible.
3	The CUPA is not fully tracking or accurately reporting enforcement actions taken and the total fines or penalties assessed on the Annual Enforcement Summary Report 4 for the last three fiscal years. CCR, Title 27, Section 15290 (a) and (a)(3) [Cal/EPA]	By September 30, 2009, the CUPA will verify that all information on the Annual Enforcement Summary Report 4 is complete and as accurate as possible.

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4	<p>The CUPA has not inspected some of its regulated businesses that are subject to the hazardous materials release and inventory reporting requirements (business plan) at least once every three years. During the hazardous materials business plan file review, six out of ten files had not been inspected within the last three years. However, based on the CUPA's database, two out of ten facility files had not been inspected within the last three years.</p> <p>HSC, Chapter 6.95, Section 25508 (b) [OES]</p>	<p>On an annual basis, the CUPA shall inspect all facilities at least once every three years. By April 30, 2009, the CUPA will submit a progress report toward correcting this deficiency, including the number of facilities inspected.</p>
5	<p>The CUPA is not forwarding business plan information to fire agencies within 15 days of receipt and confirmation.</p> <p>HSC, Chapter 6.95, Section 25509.2 (a)(3) [OES]</p>	<p>The CUPA will forward data collected to other local agencies within 15 days of receipt. By April 30, 2009, the CUPA will develop a plan of correction.</p>
6	<p>The CUPA is unable to document in certain instances that some facilities that have received a notice to comply for minor violations have returned to compliance within 30 days of notification. The business must submit a Return to Compliance (RTC) certification for documentation of compliance. In the absence of certification, the CUPA must use a follow-up process as noted in the CUPA's Inspection and Enforcement (I&E) Program Plan to confirm that compliance has been achieved.</p> <p>For example, no RTC certifications or follow-up documentation could be found in the files for the following facilities documenting that all violations had been corrected:</p> <ul style="list-style-type: none"> a) The October 14, 2005, inspection conducted at Steve's Transmission on 2950 Highway 50 in South Lake Tahoe. b) The October 27, 2006, inspection conducted at Welcome Auto Body located at 1796 D Street in South Lake Tahoe. c) The June 29, 2006, inspection conducted at the Radiator Doctor located at 1012 Industrial Avenue in South Lake Tahoe. d) The August 14, 2006, inspection conducted at El Dorado County Fleet Management, General Services, located at 3940 Highway 49 in Placerville. e) The February 17, 2006, inspection conducted at Sanitex Cleaners located at 369 Main Street in Placerville. <p>CCR, Title 27, Section 15200 (a) (8); and HSC, Chapter 6.5, Section 25187.8 and Chapter 6.11,</p>	<p>The CUPA will follow its I&E Program Plan.</p> <p>By July 29, 2009, please submit to Cal/EPA a RTC certification or a complete follow-up report from two facilities that have been cited for minor violations.</p>

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	Section 25404.1.2 [DTSC]	
7	<p>The CUPA did not implement its graduated series of enforcement as outlined in its I&E Program Plan. For example, the CUPA failed to take the appropriate enforcement against the following facilities for the illegal disposal of hazardous wastes noted during the file review:</p> <p>a) Steve's Transmission located at 2950 Highway 50 in South Lake Tahoe was inspected on October 14, 2005. The inspector noted the following: "I observed used absorbent in the trash dumpster outside and trash can inside. Used absorbent must be stored in a closed container, labeled with the words 'Hazardous Waste,' the contents, the physical state (solid) of the waste, your company's name and address, and the initial date of accumulation. It also must be disposed of as a hazardous waste with a licensed disposal facility. The (3) 55- gallon drums of waste transmission fluid need to be labeled as described above...An employee said that the Stoddard Type solvent is combined with the waste transmission fluid and picked up by Reno Drain Oil. Do not combine the waste solvent with the waste transmission fluid. Dispose of separately."</p> <p>b) Ladd's Repair Service, located at 4861 Black Oak Mine in Garden Valley, was found on or about March 27, 2006, to be disposing of used oil filters to the trash with the surrounding soil stained with used oil. The facility was instructed to cease and desist from further disposing of used oil filters into the trash.</p> <p>c) In a more recent case, the CUPA also failed to take the appropriate enforcement action. One plastic 55 gallon drum was found along side the roadway leaking a red liquid on or about December 4, 2008. The drum was placed upright to stop the discharge. The CUPA observed three metal 55-gallon drums in a dumpster behind a nearby business. One of the drums contained approximately 1 gallon of petroleum based fuel additive liquid. A packing slip on one of these metal drums identified the recipient. The alleged responsible party stated that the drums were to be taken to a disposal facility but apparently they were dumped by facility personnel.</p> <p>d) Ragtime Aero, located at 3481 Airport Road in Placerville, was inspected on April 12, 2006. The</p>	<p>The CUPA will implement its graduated series of enforcement per its I&E Program Plan.</p> <p>The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include covering the Cal/EPA "Violations Classification Guidance Document for Unified Program Agencies," which is available on the Cal/EPA Web site under Unified Program-Inspection and Enforcement Resources.</p> <p>By July 29, 2009, the CUPA will provide violation determination training to its inspectors.</p>

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	<p>facility was cited for illegal disposal of used oil filters in the trash. The facility was instructed to cease and desist from further disposing of used oil filters into the trash.</p> <p>The CUPA will follow its graduated series of enforcement, which includes the issuance of administrative enforcement orders (AEOs). [Note: A Class I violation must be addressed through a formal enforcement action according to DTSC's Enforcement Response Policy (E0-02-003-PP).]</p> <p>HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6; and CCR, Title 22, Section 66260.10 and Title 27, Section 15200 (a)(8) [DTSC]</p>	
8	<p>The CUPA did not conduct a complete hazardous waste generator inspection on June 11, 2008. During the inspection, the following was noted:</p> <ul style="list-style-type: none"> a. The inspector failed to observe that satellite accumulation drums had not been labeled as specified under Health and Safety Code, section 25123.3 (d)(4). b. The inspector inadvertently overlooked that accumulation start dates had not been posted on numerous spent fluorescent tubes as required by title 22 of the California Code of Regulations, section 66273.15, had not been labeled as required by section 66273.14, and had not been stored as required by section 66273.13(c). c. The inspector failed to ask whether the operator had made a hazardous waste determination of a metallic dust resulting from the turning of a brake rotor on a lathe which was disposed to the trash as required by title 22 of the California Code of Regulations, section 66262.11. d. The inspector characterized the disposal of waste paint to the trash as a minor violation rather than as a Class I violation as required by title 22 of the California Code of Regulations, section 66260.10. <p>The history of the site is as follows:</p> <p>The facility was first inspected on April 20, 1999, and 12 hazardous waste violations were noted. Next, the facility was inspected on May 05, 2003, the inspector "observed (3) empty drums (55 gal ea) and (1) full (55 gallon) and (1) 15 gallon drum w/soil + (?) at rear of the autobody area. Drums were not properly</p>	<p>The CUPA inspector corrected this deficiency before the end of the inspection.</p>

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	<p>labeled + open. All drums were dented and rusting. In addition, the inspector “observed excessive waste oil on the surface of the waste oil tank + at the base of the tank on the floor. It is illegal to discharge oil to the sewer. Locate the new oil and waste aboveground tanks in an area that is protected from rain and snow, as well as any area that minimizes the possibility of a release. Contact the South Tahoe PUD to arrange for assistance determining the discharge of the drains at the wash area. The drain appeared full of water. Observed a petroleum sheen at the pavement surrounding the drain area. Do not allow for haz waste to be discharged to sewer. Provide documentation from STPUD. Note: Trough at center of shop flows to a 2,500 gal holding tank below grade- outside service door. Last pre RDO 9/3/02. Verify the discharge, if any, to this trough area.”</p> <p>The facility was also inspected on November 28, 2007, and the facility was cited for not “properly label(ing) all containers of hazardous waste 2 x 55 gallon drums of used solvent and 1 x 15 gallon drum of paint waste were found open during the inspection.”</p> <p>HSC, Chapter 6.5, Sections 25110.8.5, 25117.6, and 25123.3, and Chapter 6.11, Section 25404 (a)(1); CCR, Title 22, Sections Section 66260.10, 66273.13 (c)(2), 66262.34 (a), and 66262.20, and Title 27, Section 15200 (a)(8) [DTSC]</p>	
9	<p>Half of the underground storage tank (UST) files reviewed were missing Monitoring Plans. The following facilities are missing Monitoring Plans:</p> <ul style="list-style-type: none"> a. 3025 Forni Road in Placerville; b. 99 Placerville Drive in Placerville; and c. 5450 Pony Express Trail in Pollock Pines. <p>CCR, Title 23, Sections 2632 (d)(1) and 2641 (g) [SWRCB]</p>	<p>By April 30, 2009, the CUPA will identify businesses that are missing Monitoring Plans.</p> <p>By July 29, 2009, the CUPA will bring the identified facilities into compliance.</p>
10	<p>The CUPA is not following its Inspection and Enforcement (I&E) Program Plan. According to the CUPA’s I&E Program Plan, a significant violation includes “a violation that impairs the ability of an underground storage tank system to detect liquid leak or contain a liquid release of petroleum in the manner required by law, including, but not limited to tampering with leak detection equipment so that the equipment is no longer capable of detecting a leak at the earliest possible opportunity.” However, based on</p>	<p>The CUPA should follow its I&E Program Plan.</p> <p>By April 30, 2009, all CUPA inspection staff must review the I&E Plan. In addition, the CUPA will provide a refresher violation classification training to its inspectors. A document worth reviewing is the “Violation Classification Guidance for Unified Program Agencies,” dated June 1, 2006, which may</p>

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<p>a review of the UST files, the CUPA is categorizing some significant UST violations as minor. A few examples are as follows:</p> <p>a. 4400 Highway 49 - during the secondary containment testing conducted on 9-15-08, the gasoline piping sump failed. The sump was re-tested three times and the CUPA labeled this as minor; and</p> <p>b. 4051 Cameron Park Drive - during the annual compliance inspection dated 9-8-08, the sensors in the diesel and 87 fill sumps were found lying on their sides. Also noted on the same inspection, 2 – 3 quarts of product were found in the diesel sump. These violations were labeled as minor.</p> <p>A significant violation is not a minor violation. Therefore, the CUPA failed to properly classify the abovementioned violations as stated in their I&E Program Plan.</p> <p>CCR, Title 27, Section 15200 (a) [SWRCB]</p>	<p>be found at http://www.calepa.ca.gov/CUPA/Resources/.</p> <p>On the first deficiency progress report, the CUPA will update Cal/EPA on its review and implementation of the I&E Program Plan.</p>
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CUPA Representative

Dave Johnston
(Print Name)

[Original Signed]
(Signature)

Evaluation Team Leader

Jennifer L. Lorenzo
(Print Name)

[Original Signed]
(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations provided in this section address activities that are not specifically required of the CUPA by statute or regulation. The recommendations, if any, are provided for continuous improvement and it is the CUPA's decision whether or not to follow the recommendations.

1. **Observation:** The CUPA is currently revising its I&E Program Plan. The CUPA has consistently referred cases to the District Attorney's (DA) office for formal enforcements. In addition, the CUPA has recently included the AEO process as part of its enforcement options. Some citations regarding the Aboveground Petroleum Storage Act are incorrect and some information regarding the imaging of documents is not applicable to the CUPA.

Recommendation: Prior to finalizing the I&E Program Plan, the CUPA should verify that all information within the I&E Program Plan is correct. Additionally, Cal/EPA recommends that the CUPA utilize all enforcement options as stated in its I&E Program Plan.

2. **Observation:** The CUPA is conducting hazardous waste generator inspections with a frequency that is consistent with its I&E Program Plan. The CUPA has inspected 347 hazardous waste generators that have been identified by the CUPA. The last three Annual Inspection Summary Reports indicate the following:

- a) 203 hazardous waste generators were identified in FY 04/05 of which 100 were inspected,
- b) 350 hazardous waste generators were identified in FY 05/06 of which 107 were inspected, and
- c) 375 hazardous waste generators were identified in FY 06/07 of which 140 were inspected.

The CUPA has inspected approximately 93 percent of all known facilities generating hazardous waste over the past three fiscal years. In addition, there is a difference of approximately 200 facilities between what the CUPA has reported in its latest inspection summary report for FY 06/07, which is 375 facilities, and the total number of businesses manifesting off hazardous waste with active EPA ID numbers listed in the Department's Hazardous Waste Tracking System, which is 575 facilities.

Recommendation: Although improvement has been made since the last evaluation, further improvement can still be made. After identifying any unlisted facilities, DTSC recommends that the CUPA should complete inspections of all facilities within its three year inspection cycle.

3. **Observation:** On April 18, 2007, a complaint was filed with the California Regional Quality Control Board (CRWQCB), Lahontan Region by a citizen regarding oil in the service bay drains at a site. The complaint was filed against Tires Plus, the operator of the service bay drains and the sub-tenant of CSK Auto. The CRWQCB contacted the El Dorado County Environmental Management Division (EMD) and the City of South Lake Tahoe. A representative of the EMD visited the site and issued a Corrective Notice dated April 18, 2007. On April 20, 2007, a Public Works Inspector with the City of South Lake Tahoe performed a site inspection to investigate the complaint. The Public Works Inspector investigated the site, pulled the plans, and determined that the slotted drain inside the building at the eight repair bay doors drained to a drop inlet (DI). The DI then drained to an infiltration trench on the property. It was EMD's understanding that the Tire Plus site manager plugged the drain near the eight repair bay doors so that fluids can no longer enter the drain. Laboratory analysis of soil samples indicated petroleum hydrocarbon impacts in all samples collected.

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Recommendation: If the circuit prosecutor fails to take the case, then the CUPA may pursue an AEO against Tire Plus, Inc., for illegal disposal.

- 4. Observation:** The CUPA was able to demonstrate that approximately 80 percent of the complaints which were referred by DTSC from July 03, 2005, to July 03, 2008, were investigated. Follow-up documentation could be found for Complaint Numbers 08-0108-0018, 06-0906-520, 07-0807-0469, 08-0508-0406, 08-0408-0286, 08-0408-0315, and 07-1107-0613, but not for Complaint Numbers 05-0805-0384 and 07-0807-0460. The CUPA maintains that Complaint No. 06-0406-0169 was never received.

Recommendation: Tracking of complaints may be improved. Ensure that all complaints are being received by the CUPA from DTSC by providing the e-mail address of the person who should receive complaints to the DTSC complaint coordinator, Nance Lancaster, via e-mail at nlancast@dtsc.ca.gov. Investigate and document all complaints referred. Investigation does not always entail inspection, as many issues may be resolved by other means such as a phone call. In any instance, DTSC suggests that all investigations be documented, either by inspection report or by “note to file” and placed in the facility file.

- 5. Observation:** The CUPA’s UST Inspection form does not identify Significant Operational Compliance (SOC) items or provide for a summary of these items for tracking purposes during the annual compliance inspection.

Recommendation: The SWRCB recommends that the CUPA provide a means for determining SOC compliance during the inspection.

An inspection “Draft” form has been given to the CUPA. This form is not required to be used by the CUPA. It is an example/tool to help the CUPA identify the SOC items that need to be reported to the SWRCB.

- 6. Observation:** The CUPA has access to and routinely uses a camera to document violations at UST facilities.

Recommendation: Photographs are useful to document violations and the conditions at facilities. Photographs could help strengthen your case should enforcement become necessary. Always remember to date stamp photographs.

- 7. Observation:** The CUPA inspector, Mark Moss, conducted the UST site inspection in a thorough and professional manner. His attention to detail and knowledge of code and regulations resulted in an excellent inspection.

Recommendation: SWRCB recommends that the inspector continue to conduct thorough inspections.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. In addition to implementing the Unified Program elements, the CUPA is also administering the Local Oversight Program (LOP) for the County of El Dorado and has been given half of the leaking underground storage tank (LUST) cleanup sites from the Regional Water Quality Control Board. The CUPA's staff is also the hazardous materials emergency response team for the County of El Dorado. In addition, the CUPA greatly contributed to the cleanup of household hazardous wastes due to the Angora fire in the South Lake Tahoe region during the summer of 2007 and also the Butte County fires that occurred during the summer of 2008. The cleanup consisted of initial surveys, site classifications, and hazardous waste characterizations.

The CUPA also administers an excellent household hazardous waste collection program for its residents.

2. Mr. Dave Johnston, who is the Supervising Hazardous Materials Specialist for the El Dorado County CUPA and the Chairman for the Region IV Local Emergency Planning Committee (LEPC), has completed the Regional Hazardous Materials Response Plan in coordination with other Region IV LEPC agency members.
3. The CUPA has significantly reduced the number of its stationary sources and thereby reducing the potential hazards to the environment and public health. Since 1988, the CUPA had approximately 50 stationary sources. Currently, the CUPA has four stationary sources. The CUPA expects this number to be reduced to one within a year.
4. The CUPA utilizes ArcGIS for its inspection program and to assist with emergency response. The CUPA has recently been able to develop a GIS map of its facilities and use the map to conduct inspections by regions within the CUPA's jurisdiction for a more efficient inspection program. The GIS map also assists with emergency response, such as identifying potential sources of releases.
5. The El Dorado County CUPA has developed an informative Web site providing a directory of services, information bulletins on environmental codes, Unified Program Consolidated Forms, Unidocs inspection forms, hazardous waste inspection tips, and links to other state and federal Web sites.
6. The El Dorado County CUPA continues to refer cases to the DA, such as the following:
 - a. Motor Motion, Inc, failing to submit its hazardous material inventory pursuant to Health and Safety Code section 25514 and collected \$500 in civil penalties,
 - b. Auto Pros to the DA and settled the case for \$4992,
 - c. ProBuilt Transmission to the DA and settled the case for \$4,294,
 - d. Dave'Z Automotive to the DA and settled the case for \$5,000, and
 - e. Tim's Auto Repair to the DA and settled the case for \$5,294.

In addition, the El Dorado County CUPA responded and participated in a hazardous materials incident that occurred at the Placerville City Pool on Benham Street. A chemical gas exposure at the pool sent multiple victims to the hospital. A delivery hose from a chemical delivery truck was connected from a plastic tote containing 15 percent Hydrochloric Acid to a chemical pump on the sidewalk and a pump discharge hose was connected to the sodium hypochlorite container in the pool's chemical room. Parties entered into a stipulated judgment for \$200,000 for civil penalties and other relief for the driver of Sierra

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Chemical Compnay mixing muriatic acid with chlorine causing a gaseous cloud in violation of Health and Safety Code, section 42402, emission of an air pollutant.